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Paper No. 12

MAIL

MAR 05 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

**DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT**

Arent Fox Kintner Plotkin & Kahn PLLC
1050 Connecticut Avenue NW Suite 400
Washington DC 20036-5339

In re Application of
Wada et al.
Application No. 09/419,793
Filed: October 18, 1999
For: HEAD SUSPENSION ASSEMBLY

This is in response to the Petition for Withdrawal of Abandonment filed February 21, 2003 and resubmitted on December 5, 2003, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

On April 10, 2002, a non-final Office action was mailed (paper No. 6) in the subject application. A response from Applicants was not received. On January 13, 2003, a Notice of Abandonment was mailed (paper No. 8).

Petitioner alleges that the Office action of April 10, 2002 (paper No. 6) was not received. In support of this allegation, Petitioner provides evidence of an e-mail exchange concerning a change of address for customer number 04372.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the subject application reveals that there was a change of address request received via facsimile communication on December 19, 2002 and entered into the application. A

duplicate copy of the facsimile request for change of address was received and postmark receipt on January 9, 2003. Both change of address request were for the above listed address. However, the non-final Office action from which the current application became abandoned for failure to respond, was mailed on April 10, 2002, i.e., eight months prior to the change of address requests.

Applicant's submission of an e-mail chain requesting change of address based upon the customer number, is insufficient given that the e-mail chain does not specifically set forth the correspondence address.

The petitioner has not made a sufficient showing of non-receipt of the non-final Office action (paper No. 6, mailed April 10, 2002) in accordance with the requirements set forth in MPEP §711.03(c), reproduced above. The instant petition lacks a statement *from the practitioner* of record (at the time of mailing the Office action), indicating: (1) that the non-final Office action (paper No. 6, mailed April 10, 2002) was not received, (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received and (3) reference to attached docketing records within practitioner's statement.

Therefore, for the above reasons, the petition is **DENIED**.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the deficiencies outlined above.



Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800